

Before the
FEDERAL COMMUNICATIONS COMMISSION

RECEIVED
JAN 16 2001

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of
2000 Biennial Regulatory Review--
Telecommunications Service Quality
Telecommunications Act of 1996
Reporting Requirements

)
) CC DOCKET No. 00-229 /
)
)
)

COMMENTS OF
THE NATIONAL ASSOCIATION OF STATE CONSUMER UTILITY ADVOCATES
ON THE NOTICE OF PROPOSED RULEMAKING:
ELIMINATION OF THE REPORTING OF VARIOUS CATEGORIES OF
PERFORMANCE INFORMATION

Submitted by:

Kathleen F. O'Reilly, Attorney at Law
on behalf of the
National Association of State Consumer Utility Advocates (NASUCA)
414 "A" St., Southeast
Washington, D.C. 20003
(202) 543-5068

Dated: January 12, 2001

No. of Copies rec'd
List A B C D E

073

TABLE OF CONTENTS

NASUCA’S INTEREST IN THIS PROCEEDING	Page 2
EXECUTIVE SUMMARY	2
<p>The 1996 Act makes clear that consumers’ right to high quality service is superior not equal to the goal of advancing competition. Performance reporting requirements should not be streamlined; in most respects the requirements of the NARUC White Paper should replace ARMIS.</p>	
<p>Principles NASUCA seeks to support in the Proposal (NPRM) or that are the basis for recommended revisions:</p>	
<p>Principle (1)</p> <ul style="list-style-type: none"> • Given the serious decline in service quality regulators must make service quality a priority; take a <i>more not less</i> active role. • The Commission must develop national <i>minimum performance standards</i>; reporting requirements are too ineffective a tool to protect consumers. • Strict enforcement must be ensured including regular audits. • If additional or more stringent requirements exist or are enacted in any state, they must be fully enforced and not preempted by federal standards. 	2
<p>Principle (2)</p> <p>The appropriate standard is not what information is “of particular interest to individual consumers”, but rather what information which if reported in a <i>timely, consistent</i> manner, would be reasonably useful to or <i>affect</i> those who rely on or regulate the network.</p>	4
<p>Principle (3)</p> <p>Technology made possible with consumer rates and ILEC promises made as a tradeoff for price capped regulation, compel that the appropriate standard be <i>improved</i> service quality, not merely “maintaining” high quality service.</p>	4
<p>Principle (4)</p> <p>The threat of local competition has failed to protect consumers against a serious decline in service quality, a compelling indicator that for most consumers local competition does not exist and is not imminent.</p>	5
<p>Principle (5)</p> <p>The <i>present</i> right of all consumers to quality service should not be sacrificed in the name of advancing <i>future</i> competition.</p>	5
<p>Principle (6)</p> <p>An important Federal-State partnership must be preserved.</p>	5
<p>Principle (7)</p> <p>All issues affecting uniformity must be addressed.</p>	5

Principle (8)	7
Even in a particular market that may be competitive for some service or customer segments, unless carriers report information in a <i>timely</i> manner, the information cannot be used effectively and as needed by regulators, vendors of network equipment, or customers.	
Principle (9)	7
There has been no showing that current reporting requirements constitute an unreasonable regulatory burden on large ILEC carriers; it is information large ILECs collect in the normal course of doing business.	
Principle (10)	8
There is no reasonable basis for concluding that any potential cost savings associated with streamlined reporting would be reflected in lower rates rather than higher carrier profits.	
Principle (11)	8
Information must be reported in a disaggregated format as presently required.	
Principle (12)	8
Appropriate information should be collected and reported related to performance and service quality in the provision of broadband and other advanced services; performance measures on static and noise should be in place and enforced.	
Principle (13)	9
Competitive pressures have not been sufficient to achieve network reliability in today's marketplace; the need for reporting network reliability data continues.	
Principle (14)	9
Public policy must recognize and address disparity in control over service quality between ILECs and non facility-based carriers.	
Principle (15)	9
Service quality data would be more meaningful if all LECs including CLECs reported such data; however, relevant distinctions as to technical control and burden should be reflected in the requirements.	
Principle (16)	9
Additional definitions, performance measurements and prohibited practices must be included in revised requirements; lessons being learned from current state investigations and audits must be reflected in the requirements.	

Principle (17)	10
Unless ILECs seeking Sec. 271 or merger authority make an initial demonstration of <i>sustained</i> high quality service to existent customers, no significant regulatory attention and resources should be committed to such applications.	
Principle (18)	10
Regulators must determine the effect on service quality of ILEC programs that have offered lavish early-out incentive programs resulting in the departure of many of the most well trained and experienced employees with service quality related positions in management and non-management categories.	
	Paragraph
I. INTRODUCTION	1
II. BACKGROUND	7
III. DISCUSSION	10
A. Focus on End-User Consumers	11
B. Categories of Performance Data	16
1. Missed Installations	17
2. Installation Intervals	18
3. Trouble Reports	19
4. Out-of-Service Troubles	20
5. Missed Repair Appointments	21
6. Repair Intervals	22
7. Other Types of Information	23
8. Definitions	24
C. Broadband Service	25
D. Disaggregation of Information	27
E. Types of Reporting Entities	29
F. Frequency of Reporting	33
G. Public Disclosure of Other Reporting Requirements	36
H. Record Retention	38
I. Elimination of Other Reporting Requirements	39
1. Interexchange Carriers	39
2. Network Reliability and Operability Council	40
3. Complaints to Federal and State Commissions	41
4. Customer Satisfaction Survey	43
5. All Other Reporting Requirements	44
J. NARUC White Paper	44
IV. CONCLUSION	45

COMMENTS OF THE NATIONAL ASSOCIATION OF STATE CONSUMER UTILITY ADVOCATES

Pursuant to Federal Communication Commission (FCC) Notice of Proposed Rulemaking (NPRM) pertaining to this docket dated November 9, 2000, the National Association of State Consumer Utility Advocates (NASUCA) submits these Comments.

NASUCA'S INTEREST IN THIS PROCEEDING

NASUCA is an association of 42 consumer advocates in 39 states and the District of Columbia. NASUCA's members are designated by the laws of their respective states to represent the interests of utility consumers before state and federal regulators and in the courts.

EXECUTIVE SUMMARY

The 1996 Act makes clear that consumers' right to high quality service is superior not equal to the goal of advancing competition. The absence of current or imminent widespread local competition compels continued regulatory mandates. Reporting should not be streamlined; the NARUC White Paper should in most respects replace ARMIS.

Specifics discussed in NASUCA's Comments reflect fundamental principles that it either seeks to support in the Proposal (NPRM) or are the basis for recommended revisions.

(1) Principle: The NPRM assumes that regulators will now play *less* of a role in service quality. In fact, given the serious decline in service both since passage of the 1996 Act and in the wake of subsequent mergers, regulators must play *more* of a role in ensuring high quality service and must identify improved service quality as a priority. The increasing national nature of telecommunications, and consumers' need for a seamless reliable network, compel that the Commission develop national *minimum performance standards* as well as reporting requirements. Strict enforcement must be ensured including regular audits. If additional or more stringent requirements exist or are enacted in any state, they must be fully enforced and not preempted by federal standards. Regulatory resources have been so heavily focused on implementation of competition-related provisions in the 1996 Act that issues of immediate and significant importance to consumers have often not received the regulatory attention they deserve.

Service quality is a dramatic example. Given the absence of local competition in most markets as a substitute protection, regulators including the Commission must take a *more* active role in service quality not the *less* active role described and assumed in the NPRM.

The Commission must put in place both service quality standards and meaningful enforcement measures including audits. Performance information reporting alone is too meager a tool either for consumers' needs or the regulatory responsibility to address the decline in service quality and

network degradation.

In fulfilling the regulatory role with respect to performance information, practical and policy considerations compel a distinction between *collection* and *reporting*. It cannot be overstated that large ILECs have no regulatory burden in the data *collection* process which is a necessary business practice. Rather reporting requires the task of assembling and formatting for regulators but a small amount of what the carriers already collect during the normal course of doing business.

Thus, the central practical as well as public policy issue in the instant Proposal encompasses two tiers, each with a timing component:

1. What information must be *reported* and how often?
2. What additional information must be *collected and maintained* and for how long, so that it is available if necessary for regulatory staff and/or auditor follow-up to problems identified in performance *reports*.

An indispensable tool to ensure effectiveness, is a strong regulatory commitment to periodic audits. If carriers conclude there is a regulatory commitment to audits, there will be less incentive for false reporting. Neither consumers nor competition are served by false or manipulated reporting.

Two types of audit must be used:

1. Those as follow-up necessary because of problems identified in information reported.
2. Periodic spot check audits so that carriers know they will be held accountable if they fail to have internal operations that report mandated information or fail to collect and maintain required additional information.

Within this framework NASUCA recommends that current *service quality*¹ ARMIS requirements be eliminated and simultaneously replaced with a new system using the NARUC White Paper as its centerpiece. The timeliness of the NARUC White Paper's quarterly rather than annual reporting requirements, makes it sensibly suited to regulatory needs on behalf of consumers and the public at large. However, so that needed additional information would be available to regulatory staff and auditors if necessary, the current ARMIS four-year data retention requirement is preferable to the two-year requirement in the NARUC White Paper.

¹ NASUCA is not advocating elimination of other ARMIS requirements; quite the contrary. Accordingly, all references in these Comments to ARMIS reporting requirements refer only to those on service quality performance.

NASUCA recommends that additional definitions be included and that certain practices be prohibited. The resulting improved uniformity of reporting will increase the potential for that information's usefulness to regulators and consumers alike.

(2) Principle: The NPRM proposed standard for service quality reporting requirements must be revised. The appropriate standard is not what information is of particular interest to individual consumers, but rather what information which if collected, reported and analyzed in a *timely and consistent* manner, would be reasonably useful to those who rely upon or regulate aspects of that network. The NPRM focus is too narrow and fails to adequately recognize that service quality requirements serve a need far greater than individual consumer convenience. A seamless high quality nationwide network is vitally important to the economy and to public health and safety. Having access to more than streamlined information is indispensable for use by regulators in fulfilling their obligation to ensure high quality service. It requires minimum national service quality standards and reporting requirements appropriate to current and future technology² that are responsive to regulatory and societal needs in assuring that all consumers have high quality telecommunications service and advanced technology capability as required by the federal act.

(3) Principle: The Proposal must be revised to emphasize that the goal of “maintaining” high quality service sets the bar unjustifiably low; the appropriate measure is *improved* service. The performance measures were largely put in place a decade ago and reflect technology of that time and a trade off made as price cap regulation was substituted for rate of return regulation. Service quality measurements should be reviewed and revised to reflect improved technology made possible with billions in consumer rate dollars. Large incumbent local exchange companies (ILECs) should be held accountable for their promises made nationwide that, if freed from rate of return regulation, they would heavily invest their increased revenues in an improvement of the network, not simply maintaining then current standards of high quality service. In varying degrees of severity the large ILECs have broken that promise.

² NASUCA will not in these Comments discuss all or even most of the specific ARMIS 43-05 (Service Quality) and 43-07 (Customer Satisfaction) reporting requirements. However, Table III of both categories could and should be eliminated. Table III of 43-05 related to *Trunk Blockage* provides such insufficient details, that as a practical matter it is useless in identifying problem areas of potential concern to consumers or regulators. Table III of 43-07 related to *Set Up Time* was historically useful but is now technologically obsolete given the pervasive reliance on SS7 systems. As to service quality measurements, the substitution of the NARUC White Paper and the inclusion of additional definitions and prohibited practices, if combined with audits, will better serve the needs of regulators and consumers.

Carriers have not borne the burden of those broken promises. Rather it is society that is now paying the heavy price of inexcusably declining service quality and various network degradations.

(4) Principle: The threat of local competition has failed to protect consumers against a serious decline in service quality; this is perhaps the most compelling demonstration to date that for the majority of consumers local competition remains illusory. These same downward trends in service quality and network reliability are in inverse proportion to record high profit levels for the large ILEC carriers most responsible. Large ILEC service quality remains at inexcusably low levels despite regulatory admonitions and fines. This combination of lowered service quality, and glacial pace in shifting to a competitive local market, further calls into question whether the federal act as written and implemented makes impossible the achievement of its stated goals.

(5) Principle: Consumers' *present* rights to quality service should not be sacrificed in the name of advancing *future* competition. Consumers' right to high quality service was codified³ for the first time in the Telecommunications Act of 1996 (1996 Act or federal act).⁴ The Proposal's expressed goal is to strike a balance between advancing competition and ensuring high-level quality service (NPRM par.10). However, under the federal act, enhancing competition is but a means toward the end of achieving high quality service and lower rates for consumers. Advancing competition should not, therefore, be considered on an equal footing with enforcing consumers' right to quality service. In any event, the Proposal's practical effect would be far from balanced; it tips too heavily in favor of illusive *future* competition and in the process sacrifices the priority of protecting consumers' *present* right to high quality service.

(6) Principle: An important Federal-State partnership must be preserved. NASUCA commends the Commission for identifying enhancement of an important Federal-State partnership as a goal of this NPRM. Numerous states have the policy of adopting service quality reporting requirements that mirror those of the FCC. Therefore, as an organization of state consumer utility advocates, NASUCA has a significant stake in ensuring reporting standards that protect consumers not only from the perspective of Commission oversight but also as those same standards would then apply in numerous state regulatory proceedings.

(7) Principle: NASUCA commends and supports the Commission's recognition of the importance of uniform definitions. However, to prevent manipulation of reported information that would thwart Commission goals, other issues related to uniformity must be addressed. As presently proposed, the NPRM's streamlined performance information could have the unintended effect of misinforming consumers and in effect rewarding not the carriers

³ Sec. 254(k); with respect to competitors' express service quality rights, See Sec. 251(c)(2)(C).

⁴ The Telecommunications Act of 1996, Pub. L. No. 104-1-4, 110 Stat 56, codified at 47 U.S.C. §§ 151 *et seq.*, amended the Communications Act of 1934.

with the best service performance, but rather those best at manipulating and distorting their performance reports. Information collected and reported in “apples & oranges” fashion, at a minimum, generates customer confusion.

A prime example is the need for uniformity in how “line” is interpreted, inasmuch as the interpretation of “line” is central to several of the streamlined categories in the NPRM. Requiring that the carriers report the total number of their *access* lines is insufficient to eliminate the lack of uniformity as to how other aspects of the performance measures relating to “lines” would be interpreted and reported. A review of current ARMIS reporting confirms that problem; it is not eliminated in the NARUC White Paper.

For example, consider the reporting mechanics associated with the Proposal’s treatment of “customer line” (NPRM par. 19) as would play out in a typical example of that reporting process. The number of *access* lines is to be used as the denominator in the fraction, but it is not specified that the *customer* lines to be used for the numerator must be based on that same definition of “line”. Assume business customer ACME Plumbing & Heating, with one telephone number/billing account but 24 lines used by its various employees, each line with its own dial tone. ACME’s phone system is out of service.

In using the NPRM proposed fraction approach for reporting Out-of-Service Troubles, Carrier “A” treats this as one “customer line” for the numerator on the basis that it is one customer/one billed account. It then uses 24 lines as required for the “access line” denominator. By contrast, Carrier “B”, as would most economists, treats this as 24 “customer lines” for the numerator because 24 lines are affected, and inserts 24 as required for the access line denominator.

Extrapolating that result for the purpose of illustration here, consumers would inaccurately conclude that as a percentage of initial Trouble Reports, Carrier “A” has a better performance record than Carrier “B” even though both carriers in fact had the identical percentage of initial Trouble Reports but did not report in the same fashion. Ironically, although Carrier “B” is arguably more forthright in its manner of reporting, it could competitively lose out in such comparisons to Carrier “A.”

Even what constitutes “notification of a trouble” (NPRM par. 19) illustrates a problem with lack of uniformity. A customer calls Carrier “A” to report a problem on the line but a recording responds, “Because of our high volume backlog, please call again at another time.” Carrier “A” thus avoids having to count such customers’ *attempt* at a notification for the reporting period.⁵ By contrast, a customer calls Carrier “B” to report a problem and it is logged as such and therefore factored into Carrier “B’s” Trouble Report filing for that reporting period.

⁵ Neither ARMIS nor the NARUC White Paper prohibit this practice which is a variation of a practice known as “dumping”, not merely theoretical behavior but rather identified as a practice of various carriers.

In that context, assume the effect on an about-to-open-its-doors business customer that must decide on a carrier. With an operation highly dependent on quality and reliable telephone service, including prompt installation and repair, that business customer would use the most recent reporting period as a tool in making its selection. Unless that information had been collected and reported in a timely fashion, reliance on such information is of questionable value as a tool for making an “informed” decision. But from the perspective of uniformity, such business customer could inaccurately conclude from this measurement that Carrier “A” had fewer service problems during that reporting period than did Carrier “B,” when in fact, not only did Carrier “A” have as many *if not more* service problems than Carrier “B,” it engaged in a variation of the practice of “dumping” to create that distorted perception. If known to the customer such behavior might heavily influence the selection process. New, or about-to-relocate-or-expand business customers are prime examples of consumers who must make critical decisions based on timely, accurate and uniform reporting.

In each hypothetical, Carrier “A” has found a way to circumvent the intent of the reporting requirements with the result that the information neither is accurate nor sending the right signal to consumers intent on making informed decisions. In addition to valid questions raised in the NPRM as to how to reflect the significance, for example, of customers being put on hold, the second hypothetical above is but one more example of the importance of uniformity. There must be uniformity not only in dozens of definitions (What constitutes a “line” for each potential use of that term? What constitutes “notification, etc.”) but uniformity in the manner certain terms are used in describing how and when those definitions are in play for purposes of reporting.

In addition, various practices should be prohibited (such as blocking or dumping customer contacts). All reporting and standards’ specifications must be tightly drafted *and enforced*. Sufficient protections to ensure that the reported information is not routinely manipulated do not exist presently in either ATIS or the NARUC White Paper requirements. Absent adequate regulatory attention to these considerations and strict enforcement including audits, there can be little consumer or regulatory confidence in the accuracy of the carrier reports. Such confidence is central to the potential use of the reported information as a tool for advancing *fair* competition.

(8) Principle: Even in a particular market that may be competitive for some service or customer segments, unless carriers report information in a *timely* manner, the information cannot be used effectively and as needed, whether by regulators, vendors of network equipment, or customers. The NARUC White Paper requirement of quarterly reporting of monthly collected is a sensible and appropriate approach consistent with the NPRM goals.

(9) Principle: There has been no showing that current reporting requirements constitute an unreasonable regulatory burden on large ILEC carriers. Absent regulatory mandates, these carriers would or should still collect the bulk of detailed information currently required. Accordingly, the Proposal should neither assume nor characterize as a regulatory “burden” what in fact is information collection consistent with routine and prudent business practice.

(10) Principle: There is no reasonable basis for concluding that any potential cost savings associated with streamlined reporting would be reflected in lower rates rather than higher carrier profits.

(11) NASUCA strongly supports the Commission’s proposal to maintain disaggregation as a reporting requirement. That process minimally must continue as to customer class and population scope. (In addition to business and residential categories, consideration should be given to mandatory inclusion of categories for CLECs and IXC’s as a monitoring tool of statutory requirements.) Information must also continue to be separated by MSA and non-MSA areas. Because aggregated information has the potential (and has been used) to distort, disaggregated information is consistently essential for monitoring and correcting practices in conflict with the federal act’s goals.

(12) Principle: Appropriate information should also be collected and reported related to performance and service quality in the provision of broadband and other advanced services; performance measures on static and noise should be in place and enforced. Congress has directed⁶ that advanced telecommunications capability be made available to *all* Americans, so that they can originate and receive high-quality voice, data, graphics, and video telecommunications using any technology. That statutory mandate remains hollow absent the collection of timely and uniform data with which regulators and consumers can assess progress and compliance.

Existent service quality standards, reporting requirements and definitions are not consistently suited to that need. For example, a reporting requirement may be triggered by the use of a “line” that in turn is then defined as one that provides “dial tone.” Options already exist for subscribing to a generic private “line” that provides permanent access to the Internet without dial tone. This further complicates *any* definition of *any* variation of “line” that might otherwise include or assume a dial tone component.

Increasing levels of static and noise should be reported and monitored as examples of measurements that have significance beyond customer irritation. They interfere with the efficient application of many new or advanced technologies, adversely affecting productivity, etc. Therefore, it is inaccurate to assume that consumers have little interest in the time interval for

⁶

See, the Act of 1996, Sec. 254 (b)(1) and Sec. 706.

repairing static on the line (NPRM par. 20). The increasing volume of such complaints filed with the Commission has too long gone unaddressed.

(13) Principle: Competitive pressures have not been sufficient to achieve network reliability in today's marketplace; the need for reporting network reliability data continues.

(14) Principle: Public policy discussions on service quality must recognize and address the disparity in control over service quality between ILECs and non facility-based carriers. The extent to which the long distance market is effectively competitive continues to be the subject of debate. However, it remains clear that during the protracted transition to local competition, non-facility based carriers are forced to be both customers and competitors of the ILECs. This is the inescapable result of ILECs' continued ability to leverage the vestiges of historic monopoly power and the prohibitively high cost of start-from-scratch-facility-construction. Thus the quality of the technical level of service such competitors can provide *their* customers can largely be no greater than what they themselves receive from the ILECs. The NPRM appropriately solicits comment on this issue and the requirements ultimately adopted should reflect that fundamental difference.

(15) Principle: NASUCA supports NARUC's conclusion that service quality data would be more meaningful for all interested parties, including consumers and state commissions, if all LECs including CLECs reported such data; relevant distinctions should be reflected in the requirements. The NPRM appropriately recognizes distinctions between small and large ILECs (par. 29) and between ILECs and CLECs (par. 32), distinctions relevant to reporting requirements. It may well be appropriate during the protracted transition to competition for reporting requirements to reflect at least two of those distinctions: disparity in control over technical service as discussed above, and disparity as to burden.

ILECs are well and long equipped to *collect and report* the data needed, having had monopoly rate dollars to do so. But CLECs would now be required to commit significant resources to that initial effort of establishing the necessary formats, etc. Perhaps of most concern is the potential that the process and format for reporting CLEC performance would have to be profoundly complex in order to fairly reflect (and thus be understandable and useful to consumers) the variances in control over technical aspects of the service provided. Arguably such CLEC reporting requirements should be staggered, with an initial voluntary approach followed by mandatory reporting phased in according to certain triggering benchmarks such as market share.

(16) Principle: NASUCA presents here some specific examples of additional definitions, performance measurements and prohibited practices that it recommends be considered in revised requirements. Additionally, much is currently being learned based upon recent state investigations; hopefully useful information will also emerge from the audits recently conducted as required in merger authorizations. NASUCA urges the Commission to ensure that such audit reports are released to the public as soon as possible for the role

they can play in that process and, as they continue to emerge, that lessons being learned from state investigations be factored into the process.

(17) Principle: The Commission should make clear from the outset to those ILECs seeking Sec. 271 or merger authority that there must be an initial demonstration of *sustained high quality service* to its existent customers before such applications will be the subject of significant regulatory attention and resources. Regulators are understandably beleaguered by the crush of merger and Sec. 271 applications. Those who advocate for consumers understand that consumer protection was intended to remain paramount in the federal act. It is frustrating that all too often such applications come from carriers with records of declining service quality, applications that then consume the time, attention and limited resources of regulators. That distraction is overwhelmingly to the detriment of consumers whose immediate needs, including enforcement of service quality requirements, become secondary at best.

(18) Principle: The large ILEC trend of offering lavish early-out incentive programs continues; concern has escalated in the wake of the most recent program that resulted in the departure of many of the most well trained and experienced engineers, and various other quality-control-related positions in management and non-management categories. The effect on service quality must be examined by regulators. Assurances from large ILECs notwithstanding, it is reasonable to conclude that as a result of that management strategy, the network is growing increasingly vulnerable to additional reliability problems. NAUSCA urges regulators, including the Commission, to track performance measurements that provide useful indicators of such result, including use of the performance measure “No Troubles Found” that currently is included neither in the Proposal nor the NARUC White Paper.

I. INTRODUCTION

To facilitate Commission review of NASUCA’s position on the numerous issues and questions raised in the NPRM, NASUCA’s Comments are set forth in numbered paragraphs corresponding to those in the NPRM. In instances where issues overlap they are identified and responded to as such.

1. The NPRM’s first paragraph identifies its multi-faceted goal of furthering the purpose of the 1996 Act by eliminating the reporting of many categories of information so as to reduce the regulatory burden of carriers, and modifying how other information is reported so that it will be more useful to consumers and regulators.

Comment: Consumers’ right to have the statutory mandate of quality service enforced is superior to considerations of competition. The NPRM is launched with a citation to the 1996 Act’s preamble:

“...to promote competition and reduce regulation *in order to* secure lower prices and higher quality services for American telecommunications consumers and encourage the deployment of new telecommunications technologies.” (Emphasis supplied.)

However, both the tone and substance of the remainder of the NPRM place greater emphasis on enhancing competition than on enforcing the right of all consumers to quality service. No such right to quality service, let alone *high* quality, had been included in the original 1934 Act. Its inclusion was cited as one of the few pro-consumer provisions of the 1996 Act. Although this preamble language does not have the force of law, consumers’ newly codified right in Sec. 254(k) does have such force although not referenced in the NPRM.

Yet when parsed, even that unenforceable preamble provides instructive direction as to where regulatory emphasis should be placed. The phrase “in order to” is the fulcrum regulators must embrace. This cited preamble language makes clear that competition was not---and should not---be considered a goal in and of itself. Rather competition is valued *only as---and to the extent that it does---* “secure lower prices and higher quality services for American telecommunications consumers.” Consumer advocates conclude that there is a too frequent lapse in recognizing let alone ensuring the appropriate relationship between competition and consumer protection.

The combination of lack of local competition and decreased service quality in the marketplace in the five years since passage of the federal act, including the results of subsequent merger approvals, fuels consumer frustration. Such developments also make clear that it is increasingly questionable whether local competition will occur for the majority of consumers any time soon...*or* for many consumers...*ever*.

As discussed in these Comments, the proposed streamlining if put in place as set forth in the NPRM, could in fact lead to consumers *experiencing even worse service quality* than they have now, let alone as it existed at the time of the 1996 Act. NASUCA urges the Commission to take all steps necessary to prevent that outcome. For it would be an ultimately perverse irony if service quality were sacrificed in the name of striving to *advance* competition that consumers do not even have in most local markets, and are not likely to obtain soon, *even if* the Proposal were adopted.

2. NPRM’s First Goal: “Eliminate the bulk of the existing service quality reporting requirements which no longer make sense in today’s marketplace” (the current 30 categories of information to be reduced to 6).

Comment: The current review is certainly appropriate and consistent with both the 1996 Act and the Communications Act of 1934. As discussed in par. 39 below, some current reporting requirements should be eliminated as rendered obsolete by new technology. It is appropriate to eliminate ARMIS Service Quality reporting in favor of an overhaul more responsive to the federal act’s commitments. In substance the bulk of the reporting requirements should be maintained, combined with the NARUC White Paper, and in some respects expanded. However,

as to the time requirement for the retention of records, the current ARMIS four-year requirement should be maintained instead of the NARUC White Paper requirement of two years.

In recognition both of the accelerated pace of technological advances and reduced regulatory budgets, to the maximum extent possible reporting requirements should be formulated that could *automatically* keep pace with future technologies.

“Today’s marketplace” dictates a different result than that suggested in the Proposal. Current market share statistics and trends make clear the *de minimus* extent of local competition, much of which is concentrated in select markets atypical of the nation as a whole. Only in an infinitesimal number of markets are customers afforded *any* choice let alone a meaningful one, and as predicted, residential and rural consumers are typically the last to be afforded choice. By any measure, the pace toward competition is at best a crawling pace. In the absence of marketplace competition protections, actual performance standards must be developed and enforced at the national level to supplement Commission reporting requirements and state action.

Service quality standards should reflect not only technical considerations currently included in ARMIS reporting, but non technical features such as those in the NARUC White Paper that are inseparable from providing quality service (e.g., Answer Time).

3. NPRM’s Second Goal: Better serve consumer protection goals.

Comment: The implied NPRM emphasis here is on individuals, the Commission seeking to “...arm consumers with the information they need to make informed decisions.” The Proposal is based on a false assumption of competition either existing or imminent for all consumers. The vast majority of residential (and even small and moderate sized businesses) have no choice. The immediate regulatory goal should be to prevent service quality problems not to shift that responsibility to consumers by trying to “arm” them with performance information that would largely serve to increase their rage and frustration that choice does not exist.

The extent of consumer anger would undoubtedly be reflected in *even higher* complaint levels but for the fact that most consumers who experience bad service barely have time to deal with the resultant lost time, inconvenience, exasperation, and often cost, let alone have time to write or call in with detailed complaints, appear at public hearings, etc.

The NPRM additionally observes in par. 3 that significant marketplace changes have occurred since adoption of the current requirements in 1991. However, neither local competition nor the threat of competition have served as effective incentives to ensure that large ILECs provide quality service rather than risk significant loss of market share. Instead, even when faced with highly publicized outcries from customers and public admonitions and/or fines from regulators, ILEC management responds with 1) aggressive public relations efforts aimed at scape-goating regulation and factors “beyond their control” 2) lobbying efforts to reduce regulatory oversight budgets and 3) aggressive diversionary distractions of limited regulatory resources through

protracted litigation and/or the threat of litigation.

Clearly management of these large ILECs has concluded that the payment of meager fines and protracted litigation make less of a dent in their record profits than would sustained compliance with state-enforced standards. Perhaps this pattern more dramatically than any other confirms that the management of large ILECs do not anticipate imminent competition for local service. Otherwise they would be forced to genuinely improve quality rather than create the *temporary illusion* of improvement. Despite repeated public relations disasters over service complaints that in a competitive market could be expected to result in lost market share, the ILECs prod on with continued poor service and excuses instead of sustained improvement.

4. NPRM's Third Goal: Explore ways the Commission can continue to work with the states to ensure that consumers enjoy high quality telecommunications service throughout the United States.

Comment: NASUCA supports pursuit of all meaningful ways to achieve that goal as discussed herein.

5. The increasingly national nature of telecommunications offerings; the Proposal describes the Commission's basic service quality role as an information clearinghouse in partnership with the States.
6. The Proposed reduction from 30 to 6 categories of information to be reported represents the Commission's proposed national monitoring "floor" as a uniform framework that can "serve the interests of the carriers, consumers, and state and federal regulators alike."

Comment: NASUCA concludes that such a role for regulators including the Commission is inappropriately too passive. Regulators must instead be *more* active in partnering to ensure high service quality and the capacity for advanced technologies for all consumers as promised in the 1996 Act.

It is the increasingly national nature of telecommunications operations and strategic planning that underscores the appropriateness as well as the necessity of consumers nationwide being able to depend on a high quality seamless national network. That societal need is both economic and related to safety and public health; it can only be assured first and foremost by the Commission pursuant to the statutory mandate of the 1996 Act. That enforcement should continue to be supplemented by state regulations that would be at least as stringent so as to reflect additional local factors and needs.

Poor service negatively affects the economy. Service quality problems and frustration have an adverse effect beyond mere individual consumer annoyance. The flow of intrastate and interstate commerce depend on the ability of consumers to be able to use their phones to transact business

with merchants and to make routine appointments for the day-to-day care of themselves and their families.

For employers, there is a double concern:

- The increased amount of time spent dealing with installation/repair problems and the decreased productivity and/or sales as a result of communications systems that are down, delays in installation and repair, etc.
- *Additional* reduced productivity when workers feel they must use office time to deal with the hassle of installation delays or service quality problems related to their home line.

Business customers depend heavily on timely and efficient installation of service, on reliability of that service for voice and data transmission needs as well as timely and appropriate repair when problems arise. Compared to other factors of value, businesses in fact have ranked these attributes even higher than do residential customers. Other “value” factors fall far behind. The top criteria were reliable service (93% rated “very important”), fast fix problems (89%), responsive service (84%) and quality [communications] products (83%)⁷.

Comparable to the dramatic increase in the number of Americans who work out of their home, there is also an increasing number of businesses and their employees who must rely on telecommuting. For those affected, that includes the ability to make voice, data and facsimile communications *from home* without productivity diminished by delays or quality decline.

The United States' burgeoning participation in the global market⁸ demands round-the-clock access to sophisticated equipment and networks. Even employees who do not telecommute are increasingly expected to have access to sophisticated telecommunications equipment at home so that once home from work they can check data and transactions being made in their employer's international markets in time zones on the other side of the globe.

Business decisions as to where to locate, or whether to relocate, or whether to expand their operations to other locations, are often heavily influenced by the quality of local telephone service as reflected in carrier performance. That is a compelling reason why reported performance information must be based on timely information if it is to perform this important economic development function.

⁷ “Customer Care Special”, *Telephony*, November 6, 1995, 4-18. (Those survey results were also contained in UNISYS press release of same date.); similar consumer attitudes are reflected in surveys conducted by the National Regulatory Research Institute (NRRI).

⁸ The World Trade Organization negotiated a global telecommunications market agreement signed by 70 countries. “With some exceptions, the countries generally committed to...improve service.” Robert J. Samuelson, “Global Phone Power”, *Washington Post*, February 26, 1997.

Further, Congress has directed⁹ that advanced telecommunications capability be made available to *all* Americans, so that they can originate and receive high-quality voice, data, graphics, and video telecommunications using any technology. For all of these reasons, declining quality in local telephone service invariably has a negative effect on the economic development of individual states and the nation. That dual effect cannot be efficiently addressed by merely streamlined reporting information aimed at individual consumers, with no minimum standards in place, and no effective enforcement.

Poor telephone service affects public health and safety. Reliable access to emergency telephone service (E911) is also a critical public policy concern that affects public health and safety and is necessary for the protection of consumers. Such considerations are expressly recognized in the federal act as superior to strict principles of forbearance.

In the transition toward a hoped-for competitive environment, it is difficult for providers of emergency services to maintain an accurate data base. Market forces create no incentive for an incumbent local service exchange provider to expeditiously update its data base to reflect changed information about customers who have elected to switch their service to a competitive local exchange provider.

Those responsible for health care delivery systems insist that one necessary method for cutting health care costs is to increasingly shift from hospital to home care. That factor plus the swelling ranks of the aged population are but two illustrations that society will have a growing need to ensure that dependable E911 service will be available to those who must rely upon it.

Consideration should be given to whether “high quality service”, as promised all consumers in the Act of 1996, should both sensibly and of necessity include assurance that emergency service needs are identified and addressed in service quality standards and reporting requirements. Consistent with the public interest, convenience, and necessity, the Commission must ensure a seamless nationwide network that includes adequate network maintenance and the availability of an accurate data base for emergency reporting purposes. The Commission must further ensure that E911 emergency services are available with the same level of speed and accuracy regardless of whether wire, wireless, cable, or some other telecommunications technology is used; regardless of whether provided by an incumbent or competitive local exchange service provider.

⁹

See, the Act of 1996, Sec. 254 (b)(1) and Sec. 706.

II. BACKGROUND

7. The NPRM reference to “service quality” is limited to data regarding the provisioning of telecommunications services, the maintenance and repair of telecommunications equipment and facilities, and the frequency and duration of various network troubles.¹⁰

Comment: NASUCA recommends that in addition to currently required reporting of certain technical performance, that the reporting of non-technical measurements of performance be required including those reflected in the NARUC White Paper (e.g. Answer Time).

8. Current performance information monitoring was implemented in 1991 as part of the Commission’s transition to price cap regulation, “to ensure that price cap local exchange carriers (LECs) would *maintain* a high level of service quality and to allow for a full evaluation of these carriers under price cap regulation”, including available trend information. (Emphasis supplied.)
9. In 1991, the Commission adopted service quality reporting requirements but not service quality standards, stating that this decision would be revisited as well as modifying reporting requirements as the technology and industry changed.

Comment: Ironically, price cap regulation triggered the past decade’s trend of ever diminishing service quality. Telephone service has gone from being the United States’ proud hallmark to being a pounding headache for far too many residential and business customers. Despite sufficiently high rates and impressive improvements in the technology available to the telephone industry made possible with those rate dollars, incumbent local exchange companies have not remained committed to service quality. There is intense and undiminished consumer anger over service quality problems in most parts of the country. The extent to which they are now at long last emerging as the focus of state commission and media priority is clear from recent state regulatory and legislative proceedings in the SBC/Ameritech region. That trend can only be reversed through the development and enforcement of appropriate performance standards, reporting requirements *and* strict enforcement measures including audits and effective fines.

¹⁰ Footnote 9 of NPRM par. 7 describes current outage reporting requirements. For all common carriers such requirements are triggered by outages that affect 30,000 customers for 30 minutes or longer; common carriers operating either transmission or switching facilities are required to report outages that potentially affect 30,000 customers or that affect special facilities such as airports.

To understand the basis of such decline, one has to understand historic and recent dual management objectives. First, in anticipation of competition, they had sought additional revenues with which to obtain a competitive advantage. Second, ILEC management sought to take advantage of the price cap system's "reward for efficiencies achieved." Cost cutting in the area of service quality (work force size, extent of training, investment in network maintenance, etc.) qualified as such an "efficiency achieved" and it best accomplished both of those management objectives.

No other cost cutting method so quickly frees up cash as does diverting monies previously used for service quality controls. Previous rate of return regulation included a regulatory braking mechanism if the monopoly neglected service quality (i.e., such management failure could be reflected in authorized rate of return and authorized customer rate levels by regulators committed to protecting consumers). Society is paying an enormously high price in declining service for the trade-off that was struck with price cap regulation; promised competition as a substitute protection has not emerged, and *disinvestment* in the network has become the norm.

Lack of system diversity in the deployment of SS7 equipment: An example of serious network degradation by large ILECs. The relationship between carriers' non use of diversity with SS7 and its relationship to an alarming increase in levels of preventable outages, is an example of the need for national service quality standards and enforcement supplemented at the state level. The scope of outage impact and duration has increased in recent years and a significant percentage of such outages were avoidable if the carrier had used diversity as required with the deployment of SS7, a technology widespread throughout the country. Use of diversity in SS7 equipment is required in voluntary industry-developed standards and Best Practices for deployment of SS7; a common diversity option is the use of SONET rings that re-route traffic if a problem arises on the line. In that way, when the trouble arises traffic is diverted so instantaneously that the disruption is typically either not discernable to customers or is so relatively brief (seconds or minutes, not hours or days), that little if any adverse result is incurred.

When diversity is not used (as apparently is increasingly the norm for some ILECs based on reported data) the expanded effect of the outage can and all too often is dramatic. More significantly, the wide scope and impact of the outage were preventable had diversity been used as required. For example, an outage that could and should have been contained either in scope (e.g., 700 customers) and/or duration (e.g., 3 minutes) if diversity were used, instead hits a much larger number of customers (e.g., 60,000 customers) and/or for a much longer period (e.g., three days).

These large ILEC cutbacks on diversity, at a time of record high profits, do not come as a complete surprise to those who had explained likely continued management behavior toward service quality once the federal act would be put in place.¹¹ Results of what leaders in the field

¹¹ See "Baby Bells Face A Tough Balancing Act: Reputation for Service Is On the Line Amid Deep Staff Cuts," *Wall Street Journal*, 4 Jan., 1996, A. 2.; "Telecommunications Service Quality," *The National*

had once been describing as their new strategy of price capped rates plus cutbacks in service-related costs, had already been experienced elsewhere.¹² As already discussed, it was this anticipation of competition that sent the LECs in search of the most quickly available funding they perceived as critical in strengthening their competitive advantage.

Whether a carrier intends to court or hopes to be courted, the prospect of being involved in a merger requires substantial amounts of cash. At the same time, the prospect of getting ready for competition triggered the perceived need of heavy investment in high cost "positioning" ad campaigns. Cutting back on service is seen as one, if not *the* fastest method for quickly obtaining the significant amounts of revenue needed for mergers and for those heavy advertising outlays. Unfortunately, but as predicted, that money largely was diverted from service quality and network investment.

III. DISCUSSION

10. The Proposal's streamlining of reporting requirements is intended to be a carefully designed balance between the needs of carriers, consumers, state public utility commissions and other interested parties.

Comment: As discussed elsewhere (e.g., par. 39) a small number of current reporting requirements are obsolete in light of changed technology, or are of little use because of the way the information is presented, and should thus be eliminated. But the bulk of the reporting requirements should not be eliminated. That is particularly clear if streamlining is in the name of a mistaken assumption that "balance" between competition and protecting consumers against poor service is appropriate

Regulatory Research Institute (March 1996) at 4.

¹² As pointed out in the NRRI report, price cap regulation of British Telecom and of AT&T were followed by a decline in service quality. *Ibid.* (Citation omitted.)

There has been no carrier showing of an unfair or unreasonable burden in collecting or reporting information *or* that they would abandon such information collecting if not required to do so by regulators *or* that if their costs were reduced as a result of such streamlining, that residential customers would see such reductions reflected in lower prices.¹³ Quite the contrary. Based on past practices, any reduced cost of reporting compliance can be expected to show up in profit columns not consumer pockets.

Before assuming that large ILECs are burdened by collecting such performance data, it should be recalled that in any comparable segment of commerce, if a company is to operate efficiently toward profit maximization and achievement of market share in part through customer attraction and loyalty, it must on a timely basis collect and analyze detailed internal information comparable to current reporting requirements at issue here. That is why there is a dual fallacy in the NPRM assumptions as to carrier impact of its Proposal. First it inaccurately assumes streamlining would remove a significant carrier burden; that in turn flows from the false assumption that in the absence of *required* reporting the large ILECs would no longer collect such detailed information.

Let us consider the analogous hypothetical of a 12-story department store. Its management seeks to ensure quality service from the perspective of customer convenience/expectations *and* to monitor quality control from the bottom line perspective of ensuring the most efficient use of resources. That is in keeping with the goal of maximizing profit without sacrificing customer satisfaction and loyalty. Collecting and assessing literally hundreds of categories of such information is central to both aspects of doing business. The timely collection and assessment of reams of internal tracking make it possible for the department store management to:

- monitor inventory so shelves are stocked with what customers want, yet not overstocked
- initiate a retraining program to address increased complaints specifically about cashiers in the curtain department
- discontinue use of an experimental new floor wax when internal data demonstrates it has resulted in increased slip & fall claims.

Nothing short of detailed tracking allows efficient problem identification and correction. Streamlined tracking would be a costly and false economy. Broad categories of information (e.g., complaints) are the starting point of problem identification. But the collection and availability of ever narrowing subsets of information are necessary for the next critical steps of pinpointing the problem and thus the solution (e.g., that the problem is in the curtain department not the entire 4th floor, with retraining now necessary of the new employee in that department).

¹³ NASUCA again emphasizes that the preamble of the federal act cited in the NPRM par. 1 and the foundation of this Proposal, justifies the advancement of competition “in order to secure lower prices and higher quality service for...consumers.”

By way of analogy, consider what Ameritech now provides each of its five state commissions on a weekly basis: weekly reports on service performance measurements so as to evaluate whether progress is being made with respect to serious service quality problems throughout the region. Those *weekly* reports serve the useful purpose of demonstrating that frequent *reporting* of performance information is basically a process of sharing with regulators information the carriers internally track. In fact there are endless such items that carriers track on a much more frequent basis than the monthly collected/quarterly reported standard of the NARUC White Paper.

Using Illinois as an example, for these particular weekly reports the performance information is broken down by the carrier's 12 districts, yet more detailed information is still *collected and maintained* for internal purposes (retained for regulatory review and analysis if needed). The more detailed performance information collected is further broken down to the level of each central office (wire center) within each district. In that way if there is a statewide problem identified by regulators from the *reported* information, further information can be requested so as to determine whether and to what extent it is a localized problem; if necessary the still *more* detailed information collected and maintained by the carrier can be used to identify that a problem in north Chicago can be distinguished from one in south Chicago so as to further isolate the causes and necessary corrections.¹⁴

¹⁴ The weekly reports being filed with the 5 Ameritech region commissions graphically illustrate problems discussed elsewhere in NASUCA's Comments. For example, in Ohio: 1. Installation and repair intervals are aggregated in that part of the report that describes the "target" goals of the carrier. In that section it is impossible for regulators to determine if the carrier is appropriately setting a reasonable expectation for *each* category. 2. In measuring those intervals, the basis is the "promised" interval; that raises the same issues of distortion as "missed appointment" discussed in par. 17 below.

Ameritech Ohio formats its weekly report so that it uses self-selected Performance *Targets* for the measurements. This allows it to skew the results in classic public relations fashion, so that, for example, if the target selected in Ohio is unreasonably low, a high level of achievement can nonetheless be declared an "improvement." Carriers *should never be allowed to self-select targets*. That approach make a mockery of performance reporting.

Consider by way of analogy, the measurement of treatment for an emergency room patient diagnosed with major internal hemorrhages from an automobile accident. Would the hospital be allowed to measure its medical care performance to that patient by announcing that its "target" was to bandage the patient's bruised elbow?

Just as disaggregated information makes possible trend analysis of the progress of competition by customer class or geographic region, so too does detailed technical performance information make possible engineering assessment of the cause of and needed correction to problems in the network. For the carriers themselves, that same information provides answers to routine questions:

- Is recently purchased trunk equipment performing as promised and expected? Without detailed tracking information, the ILECs would have an all but impossible task in holding the equipment vendor accountable for repairs and consequential damages as the carrier's risk management staff well knows.
- Are work force levels adequate?
- Is the increased demand on one part of the network having unexpected ripple effects elsewhere?

Such answers could hardly be generated internally without collecting the information currently required by regulators. The notion just does not hold up that it is a somehow nightmarish burden to collect information for regulators when that is the information carriers collect for themselves as a routine business practice. Certainly once the boilerplate is established for reporting data in the required regulatory format, there should not be any unreasonable cost of *reporting* it routinely, especially in light of increased electronic filing capabilities.

Federal and state regulators have a joint stake in having certain performance information reported with additional detailed information collected and maintained for a reasonable period. The current federal collection of state average performance makes it possible to see averages of performance within each of the states, but the more detailed information must be collected and retained for a reasonable period so that state regulators can then, if necessary, identify by location the more specific cause, scope and needed correction.

That is why having a national minimum standard of such data reporting and collection, with information reported and collected in a timely and uniform fashion, would be an extremely meaningful and appropriate partnership role. It would assist achievement of the requisite joint federal-state role in ensuring high quality performance for all consumers.

But perhaps of greatest importance is the fact that even under binding regulatory forbearance principles in the 1996 Act, the overriding need for such information as indispensable to *protecting consumers* would compel mandatory reporting of such detailed information.

A. Focus on End-User Consumers

11. The Commission seeks comment on the reasoning of its forecast that there will be less of a regulatory role in monitoring service quality based on its assumption that the market will grow more competitive, carriers will want to attract customers with competitively superior service, and consumers will make more informed choices of carriers based on streamlined information.

Comment: That reasoning, though presumably well intentioned, is seriously flawed as already discussed in the context of the non-competitive marketplace for local service. The l-o-n-g view going into the next decade should influence but not control current consumer needs and regulatory priorities. If dependent on the proposed streamlined information, regulators would not be able to identify specific sources and trends of service decline, establish appropriate remedies and accountability.

12.

13. and

14.

The proposed standard for the future of what information is to be reported is that which is “of particular interest to consumers”. The airline industry provides an instructive potential model for streamlining reporting requirements. The Department of Transportation (DOT) drastically reduced carrier reporting requirements in 1987, limiting such reporting to those of greatest importance and use to airline consumers (i.e., on-time flight performance and baggage handling statistics).

Comment: The DOT analogy cited as a model in the NPRM is seriously misplaced. Although the DOT oversees matters largely of convenience to airline customers, its role should not be discussed in a vacuum. The Department of Transportation has jurisdictional limitations that must be understood in the context of the Federal Aviation Administration’s (FAA) reporting requirements that include virtually *thousands* of separate items of information that must be collected and reported by airline carriers and crews related to both performance and safety. In addition to the airline carriers, airline crews must be federally licensed, and detailed information must be collected and reported by airport personnel, air traffic controllers, etc.

In effect, the FCC has the comparable combined jurisdictional responsibilities of the DOT *and* the FAA and cannot abandon one crucial responsibility in favor of the other. Clearly much of the information collected by the DOT and FAA is too technical to be “of particular interest to airline customers”. Yet ultimately the information both agencies require be collected still *affects* the safety and quality of service that airline customer receives.

Airline customers typically do not choose an airline on the basis of whether it has certain cargo door latch equipment, or the extent to which that airlines exceeds minimum crew levels. Yet noncompliance may result in passenger inconvenience because of long delays or canceled flights. A combination of regulations and reporting at the DOT and FAA address easy-to-understand individual customer convenience concerns as well as those issues that for the average customer are either too technical or too time-consuming to track---but nonetheless affect their convenience and/or safety.

That is likewise the case with ARMIS data. Though often too technical to be “of particular interest to consumers”, it is nonetheless extremely relevant to the quality of telephone service received; even then, only to the extent it is reported in timely and uniform fashion to federal and state regulators, business customers making decisions on where to locate their operation, vendors that depend on aspects of the network, etc.

Thus, both airline carriers and telecommunications carriers are engaged in commerce and have obligations that in certain limited respects must be subject to regulation on behalf of the public they serve. It would be inappropriate in the extreme for the Commission to limit reporting requirements to only those that it considers of interest to the average consumer (e.g., installation time). Such streamlining certainly should not be justified based in part on a flawed DOT analogy.

15. Information to be collected limited to that of particular interest to consumers.

Comment: That focus is too narrow and not in the best interest of consumers. The majority of residential, business, institutional and government agencies that use and rely on the network have neither the time nor technical proficiency to understand most of the discreet pieces of information collected even though that information nonetheless affects service they obtain from the network.

As already discussed earlier in these Comments, the more broad and appropriate focus should be on timely and uniform collection and reporting of information at the detailed level that:

- is indispensable to regulators in the fulfillment of their legal obligation to protect consumers
- can play a vital role in minimizing negative impacts of inferior service on economic development as well as public health and safety, whether from the macro or micro perspective
- provides early, cost efficient warnings of network problems that need to be addressed
- is---or should be---collected by carriers as a routine exercise in prudent management and profit maximization *even if* they are not motivated by serving the best interest of their customers and shareholders
- is one reliable indicator of whether incumbent local exchange carriers (ILECs) are thwarting intended competition by failing to provide quality service to competitors as statutorily mandated.¹⁵

¹⁵With respect to competitors' express service quality rights, See Sec. 251(c)(2)(C) of the 1996 Act.

Performance data also serves as a measure of assessing credibility. For example, according to the large ILECs, decreased work force levels have not had a negative effect on service quality. Are such claims credible if Repeat Troubles and No Troubles Found measurements have increased dramatically? Have assurances been verified as to whether at most there has been a neutral effect on service quality as a result of recently approved mergers?

B. Categories of Performance Data

16. The Proposal would retain for reporting purposes six performance measures: (1) the percentage of installation appointments that are missed; (2) the time it takes to install service; (3) the percentage of lines that have problems, including out of service lines; (4) the time it takes to have out of service lines repaired; (5) the percentage of repair appointments that are missed; and (6) the time it takes to repair service.

Comment: As discussed elsewhere, the bulk of the currently reported information should be continued not eliminated. Additional definitions should be included and reporting standards tightened in order to ensure necessary timeliness and uniformity of reporting.

In relying on streamlined information, the Commission assumes that consumers have no interest beyond those basics. That is not the case. Consumers want and expect that regulators will take the time and have at their disposal the technical expertise that individual consumers lack in assessing the components minimally necessary to ensure that the public switched network is working. It is no different than citizen reliance on government at various levels and in numerous areas of commerce (e.g., licensing standards for dry cleaners and beauticians, zoning and construction standards, etc.).

The Commission is to be commended for expressing concerns about the prospect of information being distorted for reporting purposes. Examples of concern are included in the discussion below.

Why Information on Average Performance Is Too Limited for Regulatory Purposes. There is a principle that is not directly identified in the NPRM but must imbue any discussion of the usefulness and limitations of any *average* performance measurements. It is appropriate when ensuring high quality service for all consumers, that regulators consider a carrier's *average* performance on one or more measurement. But it is essential that a high average level of such performance not be interpreted as a signal that further analysis is not required.

Discussions on service quality often place far too much (or exclusive) emphasis on "averages" and lose sight of the fact that it is no consolation to the customer experiencing bad service that what they experienced was not typical. The reliance on averages, as initially used in service quality standards more than 40 years ago, was more appropriate given the limits of technology at that time.

Not only do *all* of today's consumers deserve high quality service, only the collection, reporting and analysis of detailed information make it possible for regulators to ensure that certain subgroups of customers are not routinely "outside the high average". That follow-up analysis may reveal consistently faulty equipment and/or insufficient staffing in certain pockets of the service territory, or some variation of red-lining, or other unacceptable practice or condition in need of correction.

1. Missed Installations

17.

Comment: Percentage of installation appointments missed. In addition to the uniformity problems already discussed, there is the issue of whether an initial "commitment" is a static concept for reporting purposes. Should carriers be allowed to consider that an initial commitment evolves into a "changed commitment"---even if the customer has no say in the matter and the "changed commitment" is effectively a *fait accompli*? Assume Carrier "A" agrees on Monday to install new service on Thursday and the customer makes arrangement to take a vacation day on Thursday to be there to provide access to the installer. When on Tuesday the Carrier determines it cannot install until Friday, it calls and leaves a message as to the rescheduling. The customer changes plans accordingly with no resulting inconvenience. The carrier then logs the Friday installation as a "missed commitment".

By contrast, Carrier "B" instead calls the customer on Thursday morning. (The customer is at home waiting for the installer's arrival, having taken a vacation day to stay home for that appointment.) The carrier tells the customer that installation now cannot take place until the following day (Friday). Nothing more is discussed or negotiated. Carrier "B" installs on Friday, but does not report it as a missed commitment (arguing if challenged that the customer "agreed" to the changed appointment, thus characterizing it as a "rescheduled commitment". The carrier then treats it only as a new commitment for reporting purposes and it is never logged as a "missed commitment"). As a result of that method of reporting, Carrier "B" scores higher than Carrier "A" on this particular measurement, even though the customer of Carrier "A" was only forced to miss one day of work and the customer of Carrier "B" was forced to miss two days of work. The carrier whose customer was most inconvenienced scores higher on the service performance measure. This is not a result that should be tolerated let alone encouraged by faulty reporting requirements.

And it is not a theoretical hypothetical. It is a practical reality in many parts of the country. It is but one illustration of what would occur in the real world if the Commission Proposal were put in effect. Rather than "arming consumers only with information of particular interest that they can use in selecting a carrier," this example demonstrates how exactly the opposite of what is intended would in fact occur; the precisely wrong signal sent to consumers, and the wrong carrier "rewarded."

2. Installation Intervals

18. Installation Intervals

Comment: NASUCA agrees that consumers are typically eager to know how long it will take to have new service installed once requested. Two days? Two weeks? Two months? As important as this is to residential customers, to a business customer it can mean the difference between red and black ink. Even in an idealized competitive market where some choice may exist, installation time information is necessary for broader purposes than those customers who may want to select the carrier that would install their service most quickly. Reporting only on *averages* is inadequate for regulatory and consumer purposes.

If, for example, a carrier routinely installs new service within five days for 87% of its customers, regulators and consumers need to know what if any patterns exist for the remaining 13%. Let us assume that at any given time, 5% of customers are routinely forced to wait more than 60 days. A prospective customer may or may not want to assume they will luckily fall within the 87% group and instead want to determine what risk factors might increase the likelihood that two months later they will still be waiting for installation.

Regulators need to be able to see such data and take appropriate follow-up steps to determine as to that 13%, whether, for example, there is evidence of inadequate work force levels (or inadequate training) or if promised facility improvements have not been completed, etc. But what if the more detailed follow-up data requested by the regulator suggests that the 5% population with wait time of 2 months, is not routinely random as to its demographic characteristics *but* rather quite consistently customers from a certain zip code?

If so, is that common factor nothing more than a reflection of under trained personnel assigned to that area for which the carrier must be put on notice as to adequacy of service? Or is that disproportionate population from certain zip codes suggestive of red-lining? Or if not a common factor of zip code, is the 5% population disproportionately consisting of no-frill customers who merely want installation of dial tone on a secondary line? These sub sets of analysis are an essential aspect of consumer protection and cannot be performed with merely streamlined information.

Consumers do not want to *misinterpret* performance reports that send the wrong signals or lull prospective customers into a false sense of security based on high averages. Regulators have the responsibility of ensuring that lengthy delays are not tolerated, *no matter how few customers* have been bearing that cost and inconvenience. Average installation reports are therefore limited in their usefulness and are of no consolation to those customers whose service installation is not performed within the low end interval.

3. Trouble Reports

19. Trouble Reports

Comment: Each variation of a trouble report should be included in required reporting since each serves a distinct purpose in monitoring service quality.

- Initial Trouble Report. Whether evaluating a carrier on a stand-alone basis or comparing carriers, there must be consistency. No carrier should be allowed to use any variation of “dumping”, such as the situation when a customer is told to call back. Carriers should also be prohibited from instituting the blocking of attempted calls, a particularly popular approach taken by some carriers during times of peak volume. As can be seen, the inescapable conclusion is that unless the Commission takes an active role in identifying and prohibiting certain practices, the reporting of service information will invariably be skewed and distorted. As to definitions, considerations associated with what constitutes “notification” under the NPRM’s definition of a trouble report have already been discussed above.
- Repeat Trouble Report. This measurement indicates that a customer has reported a trouble on the same line more than once in a specified period after disposition of the initial trouble (e.g., thirty day).
- Subsequent Trouble Report. This measurement indicates that before a reported trouble has been cleared, a customer re-contacts the company to check on the status of the repair on that line.

A "subsequent trouble" should not be included in performance records as a "repeat trouble" and vice versa. They are suggestive of different areas in need of attention. High levels of Repeat Trouble reports reflect on the lack of quality in diagnostic or repair service, whereas high levels of Subsequent Trouble reports reflect on inadequate response time.

- No Troubles Found. NASUCA is strongly opposed to elimination of this performance measurement. It tracks the situation in which even when the repair worker has examined the premises and equipment, they are unable to determine the cause of the problem let alone repair it. As a result, an additional repair worker must be dispatched. For those who rely on the network and those who regulate it properly, a high level of No Troubles Found is a serious and relevant indication that the carrier is failing in a fundamental aspect of work force selection, training, and/or network maintenance.

Prior to price cap and other relaxed regulation, “No Troubles Found” were so rare that even when they reached what would now be considered *modest* levels, supervisory response teams were typically assigned to immediately diagnose and correct the problem as if it were a Code Blue. What today appears to be commonly high levels of “No Troubles Found” would have been completely unimaginable and intolerable by management and regulators in the not too distant past.

The dramatic increase in levels of No Troubles Found should be a warning flag to regulators and those who care most about service quality and a reliable network. It is not difficult to speculate as to why many carriers would want this category eliminated. Recent lavish early-out incentive programs have been offered to and accepted by significant numbers of employees of the large ILECs. The most recent effort resulted in the departure of many of the most well trained and experienced engineers, and various quality-control related positions in management and non-management categories. That departure has spawned growing concern within the industry, among regulators and consumer advocates that the network is growing increasingly *more* vulnerable to reliability problems as a result.

When carrier witnesses testify before legislators and regulators on escalating service quality problems and/or are interviewed by the media, they consistently insist that such huge cutbacks in their work force through attrition and early out programs have not---and will not---effect service quality. Perhaps there is no single measurement more relevant and useful in testing the accuracy of that company assurance than the pattern level of the No Troubles Found measurement. That information collected and reported provides an early warning signal of still more problems to come if not addressed. Though individual consumers may not seek out and use such information, regulators, consumer advocates, and the media could---and should.

20. Out-of-Service Troubles

Comment: The concerns raised in connection with installation reports are consistent with concerns in this category. The safety aspect does indeed heighten the need for standards, sanctions and enforcement that protect against the unacceptable consequences of inexcusably long delays in having service restored.

Suggested Definition for "out-of-service trouble": the situation in when a customer reports no dial tone, or the inability to make or receive calls, or that quality of service has deteriorated to such an extent that normal conversation and/or reasonably intended use of the line is not possible.

21. Missed Repair Appointments

Comment: NASUCA commends the Commission for its recognition here that the information collected and reported in this performance measurement allows regulators “to evaluate the adequacy of a carrier’s telephone plant facilities and workforce, and determine whether

consumers are receiving corrective action when problems arise.” This well expresses the pervasive need for and appropriate use of the detailed information embraced in current ARMIS reports and the NARUC White Paper.

The various concerns described above as to missed installations are consistent with concerns in this category, with a reminder of the need for uniformity in definitions and application of such terms as “time commitment,” “missed repair commitment,” etc., contained therein.

22. Repair Intervals

Comment: Inexcusably long repair intervals are often even more common than those of installation intervals. An understanding of the sales-driven strategic planning of the large ILECs makes clear why. A *new* customer is more attractive to the carrier because that is a customer to whom they can best pitch a whole host of revenue-generating services at the time the consumer calls to make arrangements for new service. That is the customer mind set that is a carrier sales representative’s dream opportunity...that is the customer a carrier should *least* want to alienate so soon after they have hopefully just signed up for major one-stop-shopping with that carrier.

By contrast, the very nature of a *repair* order connotes an existent customer who can be predicted to be in a relatively *negative* frame of mind when calling to report a problem; a customer not particularly conducive to a sales pitch that urges them to subscribe to still *more* services from the very carrier with which they are now having a service problem. Which group of customers does such a carrier most want to please and therefore prioritize for service? Of course it will be the customer class with the greatest impact on revenue streams---the customer in need of installation not repair.

Repair intervals nonetheless involve the same concerns as installation intervals with respect to the issue of averages. At least some level of analysis must be done to understand what if any patterns exist with respect to the population of customers forced to wait much longer for repairs. Only with such information can regulators determine the existence (and correction) of patterns of inadequate plant facilities, equipment, work force levels or training, unfair discrimination against certain customers, etc.

23. Other Types of Information

Comment: Consumers are increasingly exasperated at the difficulty experienced when attempting to communicate with the local carrier’s business office. NASUCA supports the inclusion of answer time standards and reporting.

The following is offered as a suggested definition of “Answer”: the point at which a carrier representative is ready to assist the customer or is ready to accept the information necessary to process the call. An acknowledgment that the customer is waiting on the line, or is told, for example, “to hold” (or is mechanically put “on hold”) is not an answer.

8. Definitions

24.

Comment: In addition to definitions such as those suggested above, all definitions and terminology used in the application of performance reporting and collection requirements must be reviewed to ensure fairness, accuracy and uniformity. Additionally, certain practices should be prohibited either by the way definitions are formulated or as separate prohibitions.

- The practice known as “Held Orders” should be prohibited. It could be defined, for example, as follows: "Held orders" mean application for access line for which service has not been supplied within a stated period or the customer-requested date, whichever is later. For reporting purposes, held order counts must include those install dates that are beyond the date on which the count is made.
- The meaning of “Service: should be expanded. For example, "Service" as used here is in its broadest and most inclusive sense, and includes any and all acts done, rendered, or performed and any and all things furnished or supplied, and any and all facilities used, furnished, or supplied by local exchange service providers in the performance of their duties to their customers. Service shall not include the printing, distribution, or sale of advertising in telephone directories.

C. Broadband Services

25. and

26.

Comment: NASUCA commends the Commission for its stated interest here in the deployment of new technologies and new services. Although not aware of any systematic source of service quality information on xDSL or other advanced services, the development of such information should be encouraged and assigned as an appropriate regulatory responsibility.

NASUCA supports the development of appropriate service standards and reporting requirements for such advanced technologies, including those related to noise and static as discussed herein. Such standards and reporting information are necessary in order to give effect to the Congressional intent that all consumers shall have the capacity to use advanced technologies.

D. Disaggregation of Information

27. and

28.

Comment: NASUCA strongly supports disaggregation of information reported as previously

discussed.

E. Types of Reporting Entities, Variances in Requirements Imposed

29 and
30.

Comment: NASUCA supports NARUC's conclusion that service quality data would be more meaningful for all interested parties, including consumers and state commissions, if all LECs including CLECs reported such data; relevant distinctions should be reflected in the requirements. The NPRM appropriately recognizes distinctions between small and large ILECs (par. 29) and between ILECs and CLECs (par. 32), distinctions relevant to reporting requirements. It may well be appropriate during the protracted transition to competition, for reporting requirements to reflect at least two of those distinctions: disparity in control over technical service as discussed above, and disparity as to burden.

Unlike ILECs that are well and long equipped to report information in addition to collecting the data needed, CLECs would be required to commit significant resources to that initial effort of establishing formats and protocols for such collection and reporting. Perhaps of most concern, is the potential that the process and format for reporting CLEC performance would have to be profoundly complex in order to fairly reflect (and thus be understandable and useful to consumers) the variances in control over technical aspects of the service provide. Arguably such CLEC reporting requirements should be staggered, with an initial voluntary approach followed by mandatory reporting phased in according to certain triggering benchmarks such as market share.

31. Should carriers be relieved of all mandatory reporting under certain circumstances, and if so, when?

Comment: NASUCA is strongly opposed to such a proposal. Given the absence of competition in most markets for the majority of consumers, ongoing reporting and ongoing protection are imperative. Today's service performance is no guarantee of what can be expected tomorrow. The low level or absence of complaints filed against a carrier at a state commission should not be the barometer either of performance quality or compliance with necessary service quality standards.

For example, in a particular state it might well be that most consumers are not aware that the standard in that state is for installation within three business days. If the customer calls for installation on a Monday and is asked by the carrier's representative, "How would a week from Friday be?", the customer's acquiescence should hardly excuse such long installation interval. And it could hardly be expected to result in the filing of a complaint, particularly when most consumers reasonably continue to assume that given no choice of provider, such complaints are probably futile.

Varying complaint levels among the states are also reflective of a wide range of factors. To cite but a few:

- the ease with which complaints can be filed with the commission (Only a few states now allow electronic filing.)
- whether or not the commission has a toll free number for complaints *and* has widely and effectively publicized its availability
- whether a particular commission encourages complaints *and* has staff to process them, or rather largely relies on carrier voluntary compliance

32. Resellers and competitors that purchase network elements from an incumbent LEC may have no control over the service quality of the resold service or the purchased elements, which may impact their retail customers. How if at all should such factors be taken into account?

Comment: NASUCA commends the Commission for recognizing and be receptive to addressing the clear disparity in control over service quality between ILECs and non facility-based carriers. The extent to which the long distance market is effectively competitive continues to be the subject of debate. However, it remains clear that during the protracted transition to local competition, non-facility based carriers are forced to be both customers and competitors of the ILECs. This is the inescapable result of ILECs' continued ability to leverage the vestiges of historic monopoly power and the prohibitively high cost of start-from-scratch-facility-construction. Thus the quality of the technical level of service such competitors can provide *their* customers can largely be no greater than what they themselves receive from the ILECs. The requirements ultimately adopted should reflect that fundamental difference. State experience in various Sec. 251 proceedings would undoubtedly yield useful data and suggested approaches.

F. Frequency of Reporting

33. ARMIS data is reported on annually; the NARUC White Paper requires the quarterly filing of data collected on a monthly basis.

Comment: NASUCA supports quarterly filing of monthly collected data. The importance of timeliness has been discussed above.

34. Some states require more frequent (e.g., quarterly) reporting than does ARMIS; should the Commission act as a federal clearinghouse for state gathered information?

Comment: NASUCA supports such role in light of the increasingly nationwide and global reliance on one seamless network. It would serve the needs of all interested parties to have such a central clearinghouse so as to learn from the experiences and lessons of individual states.

35. Might it be appropriate to have ARMIS data filed annually but posted on a carrier's web site more frequently?

Comment: As a practical matter, it is far preferable to have all of the information available for ready side-by-side comparisons.

G. Public Disclosure of Service Quality Data

36. and
37.

Comment: NASUCA applauds the Commission for including detailed ARMIS reports on its web site and supports requiring carriers to post service quality data on their web sites as well as filing with state commissions. Whether including complaint levels is appropriate depends in large part on the resolution of earlier stated concerns with respect to definitions, uniformity and enforcement (including audits).

The concern is that skewed or manipulated data is arguably worse than no data at all for the purpose of individual consumer interpretation of the data. There is an acknowledged *theoretical* and *potential* value of reported data as a tool for assessing performance of either one carrier on a stand-alone basis, or as compared to other carriers. But particularly given the absence of local competition for most consumers, that potential must be weighed against the detriment that results in the absence of uniformity and timeliness in reporting. Given such strong concerns about the later, NASUCA opts for no posting of such data until such time as there can be confidence in the accuracy---and thus value---of such posted data.

H. Record Retention

38. Two years? Four years? Other?

Comment: NASUCA supports the current ARMIS requirement of four years rather than the two-year requirement included in the NARUC White Paper. For trend analysis, audit needs, and carrier accountability, such record retention is indispensable. Consider, for example, the carrier promises made in conjunction with recent mergers. It should not be assumed that such assessments could be made if auditors do not have access to documents retained for a four year period.

I. Elimination of Other Reporting Requirements

1. Interexchange Carriers

39.

Comment: As to ARMIS 43-05 (Service Quality) and 43-07 (Customer Satisfaction) reporting requirements, Table III of both categories could and should be eliminated. Table III of 43-05 related to *Trunk Blockage* provides such insufficient details, that as a practical matter it is useless in identifying problem areas of potential concern to consumers or regulators. Table III of 43-07 related to *Set Up Time* was historically useful but is now technologically obsolete given the pervasive reliance on SST systems.

2. Network Reliability and Interoperability Council; have competitive pressures been sufficient to achieve network reliability in today's marketplace and thus replaced the need for reporting of network reliability data?

40.

Comment: As evidenced by the increased number of outages and other network-related problems in recent years, competitive pressures have not been sufficient to achieve network reliability in today's marketplace; the need for reporting network reliability data continues.

3. Complaints to Federal and State Commissions

- benefits and burdens of required continued filing requirements
- should carriers be required to report the number of complaints they receive directly?

41.

Comment: Complaints (their substance, trend implications, and quantity) are an important consumer protection tool that regulators should have at their disposal. However, there is a strong potential danger in manipulation by carriers of complaint information. If posted on their web sites as a direct reflection of complaint levels filed with the commission, it may create an unfair picture of consumer satisfaction. And if done in a comparative fashion there is an even stronger danger that customers would not be told in meaningful ways how to interpret large ILEC local service performance compared to a competitor. Since the consumer would have no way of knowing what aspects are under the exclusive or near exclusive control of the ILEC, and may misinterpret where fault lies from certain types of bad technical service being provide by the ILEC to non facilities-based competitors.

Thus, in light of the continued lack of uniformity and timeliness in reporting, and the wide range of problems associated with Sec. 251 requirements, such information is particularly vulnerable for unfair use in marketing and advertising promotions. That result would be very much to the detriment of consumers and the goal of fair competition.

And as already discussed, low levels of complaints do not necessarily demonstrate high service quality performance given the large number of dissatisfied customers who do not have--or will not--take the time to file complaints. Furthermore, and as already discussed, it may not be advisable to have complaint information filed unless accompanied by whatever information the commission has ascertained with respect to patterns identified among those customers who do not get good service (either geographically, or by customer class, or by customer grade [high use of premium services versus POTS]). That Commission-generated information would, for example, be the product not only of complaints but of its own follow up to patterns identified in performance measurements as discussed earlier.

As a practical matter, a customer checking out web sites for service performance might be particularly interested in knowing what patterns, if any, exist in complaint levels that might be predictors of the service *this* customer could expect to receive given those same identifiable variables. For example, if there is a disproportionate level of complaints for secondary residential lines, and the customer is considering ordering a second line at their residence, it is this complaint-related information would be more useful than overall complaint level numbers.

4. Customer Satisfaction Survey

42.

Comment: The results of local exchange provider-generated customer surveys often suggest a level of customer satisfaction significantly higher than those in government surveys.

Comparisons of the surveys used suggest that the former are sales and marketing-driven, both in the phrasing of the questions and in the formulation of definitions such as "satisfied." The survey results which price cap carriers submit to the commissions are neither uniform among companies nor segregated by service standard or category.

Such surveys also do not test customer awareness let alone reaction to problems they may inaccurately assume are not within the carrier's control. A prime example is what is known as a *Fast Busy*¹⁶, the increasingly common phenomenon in which a customer starts to dial, but even

¹⁶ FAST BUSY. In an effort to cut down on the cost of copper, local exchange companies are increasingly using DLCs in accordance with Bellcore's TR303 DLC specification. The DLC is essentially a remote toggle switch that can be configured to act as a concentrator. Instead of each customer having a dedicated private channel to the central office, the DLC "concentrates" customers in ratios that result, for example, in 4-10 customers essentially sharing one channel. The practical effect is that when one of the channels is in use, the next customer assigned by the concentrator to the same channel, will hear a fast busy signal when they try to place a phone call. This shift to DLCs is an example of the use of advanced technology in a manner that is directly at odds with the government directive that the public switched network is to be *improved*, not degraded. It is in many respects a

before completing the dialing, hears a fast busy signal and cannot proceed in their efforts to complete the call. Consumers may understandably---but inaccurately-- assume it is being caused by heavy traffic beyond the control of their local service provider. Yet in reality the Fast Busy is but another example of inexcusable and preventable network degradation that has not been the subject of regulatory attention and should be addressed.

Additionally, analysis of those company surveys is extremely handicapped because it is not known what questions were posed, or whether the responses are based upon any relevant first-hand dealings with the company's installation or repair operations, for example. Thus, company-sponsored surveys which only report summary evaluations as to the percentage of "satisfied" customers are of extremely limited usefulness. However, an example of a survey that used professional methodology and has proved very useful in exploring customer opinions and experience, is that prepared for the Public Utilities Commission of Ohio by the National Regulatory Research Institute (NRRI).¹⁷

5. All Other Reporting Requirements

43. Streamlining reporting requirements; costs benefits.

Comment: NASUCA's position on the proposed streamlining is discussed at length in other parts of these Comments

J. NARUC White Paper

Comment: NASUCA's position as to those elements that it supports and other elements that should be included are discussed at length in other parts of these Comments

reversion to aspects of the old Party Line system that has been eliminated by regulators for most parts of the country. This use of DLCs has been done despite the absence of regulatory approval.

¹⁷ *Survey and Analysis of the Telecommunications Quality-of-Service Preferences and Experiences of the Customers of Ohio Local Telephone Companies*. July, 1996.

IV. CONCLUSION

The Telecommunications Act of 1996 established the paramount statutory right of all telecommunications consumers to high quality service and the availability of advanced telecommunications capability. The federal act is written in a manner that makes clear that regulatory assurance of consumers' right to high quality service and lower prices supercedes considerations of advancing competition or regulatory forbearance; indeed consumers' rights are to be the driving force behind *any* regulatory action aimed at advancing competition.

For most consumers in most markets there is no current or imminent local competition. Since passage of the 1996 Act, and recently authorized mergers, there has been a serious decline in service quality. The combination of the failure of competition to protect consumers against poor service, and the increase in its incidence, compel federal and state regulators to play a more not less active role in implementing the goals of the federal act.

The increasingly national nature of telecommunications and the effect poor service has on the nation's economy, public health, safety and convenience, make clear that the Commission must establish tools appropriate to ensuring a national, seamless network that is reliable and affords high quality service. To that end, the Commission must develop and strictly enforce national minimum service quality standards as an indispensable supplementary tool to service performance reporting. States may and are encouraged to develop even stricter requirements to reflect local needs and priorities, which state requirements are to supersede national standards.

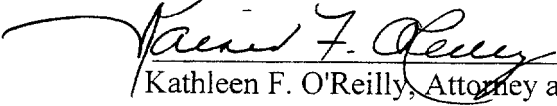
As to the proposed streamlined reporting of service performance measurements set forth in the NPRM, NASUCA is strongly opposed to the elimination of the bulk of current reporting requirements. Those should be combined in a new set of standards that largely relies for its centerpiece on the NARUC White Paper with revisions and additions that ensure timely and uniform reporting, with a strong regulatory commitment to effective enforcement measures including audits.

Performance measurement reporting cannot be focused on what may be of great interest to individual consumers as is proposed. Detailed performance information serves a much broader purpose. When reported in a timely and uniform manner, it:

- is indispensable to regulators in the fulfillment of their legal obligation to protect consumers
- can play a vital role in minimizing negative impacts of inferior service on economic development as well as public health and safety
- provides early, cost efficient warnings of network problems that need to be addressed
- is---or should be---collected by carriers as a routine exercise in prudent management and profit maximization *even if* they are not motivated by serving the best interest of their customers and shareholders

- Is one reliable indicator of whether incumbent local exchange carriers (ILECs) are thwarting intended competition by failing to provide quality service to competitors as statutorily mandated.

Respectfully submitted,



Kathleen F. O'Reilly, Attorney at Law

on behalf of the

National Association of State Consumer Utility Advocates (NASUCA)

414 "A" St., Southeast

Washington, D.C. 20003

(202) 543-5068

Michael J. Travieso

Chairman, NASUCA

Telecommunications Committee

Maryland Office Of People's Counsel

6 St. Paul Street, Suite 2102

Baltimore, Maryland

Dated: January 12, 2001